

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII

901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

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ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

In the Matter of

Nebraska Energy L.L.C.  
1205 South O Road  
Aurora, Nebraska

Respondent.

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)  
) Docket No. CAA-07-2003-0319  
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CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on September 30, 2003, pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), when the United States Environmental Protection Agency (EPA or Complainant) issued to Nebraska Energy L.L.C., Aurora, Nebraska (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charges Respondent with a violation of the Chemical Accident Prevention Provisions, and specifically the requirement to submit a Risk Management Plan under Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68. The Complaint alleges the one day statutory maximum penalty of Twenty-seven Thousand Five Hundred Dollars (\$27,500).

EPA and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the factual allegations of the Complaint.

2. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent's facility is presently in compliance with all requirements of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.

3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.

4. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below. Payment of the Civil Penalty set forth below resolves Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

6. Respondent understands that failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty proposed in the Complaint, together with interest thereon at the applicable statutory rate.

FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Five Thousand Dollars (\$5,000) within thirty days (30) of entry of this Final Order. Payment shall be by cashier's or certified check, made payable to the "United States Treasury" and remitted to:

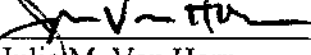
EPA-Region VII  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check should be sent to:

Julie M. Van Horn  
EPA-Region VII  
Office of Regional Counsel  
901 North Fifth Street  
Kansas City, Kansas 66101.

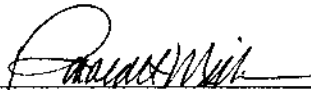
3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By   
Julie M. Van Horn  
Senior Assistant Regional Counsel

Date 18 March 2004

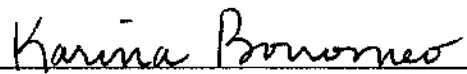
RESPONDENT:  
NEBRASKA ENERGY L.L.C.  
AURORA, NEBRASKA

By 

Title PRESIDENT

Date 3-15-04

IT IS SO ORDERED. This Final Order shall become effective  
immediately.

  
Karina Borromeo  
Regional Judicial Officer

Date March 22, 2004

IN THE MATTER OF Nebraska Energy LLC, Respondent  
Docket No. CAA-07-2003-0319

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Julie Van Horn  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,  
Return Receipt Requested, to:

Michael D. Graves  
Hall Estill  
320 S. Boston Avenue, Suite 400  
Tulsa, Oklahoma 74103-3708

Dated: 3/22/04

  
Kathy Robinson  
Regional Hearing Clerk